

**ATTACHMENT 1**  
**APPLICATION OF KEYTECH LIMITED**

**Question 9**

This Application qualifies for streamlined processing pursuant to Section 63.12(c)(1)(v) of the Commission's Rules. As set forth below, KeyTech Limited ("KeyTech") agrees to be classified as a dominant carrier with respect to the US-Bermuda route, without prejudice to its right to petition for reclassification at a later date. Although Bermuda, the home country of KeyTech, is not a WTO Member, the Federal Commission ("Commission") treats Bermuda as a WTO Member Country for Section 214 authority purposes.<sup>1</sup> Accordingly, because KeyTech accepts dominant carrier classification on the US-Bermuda route and because it is from a WTO Member Country, KeyTech's application is eligible for streamlined processing.

**Questions 11 & 12**

KeyTech provides the following information and certifications as required in Section 63.18(i) through (m) of the Commission's Rules, 47 C.F.R. § 63.18(i)-(m):

(i) KeyTech certifies that it is not a foreign carrier within the meaning of Section 63.09(d) of the Commission's Rules. However, KeyTech is affiliated within the meaning of Section 63.09(e) of the Commission's Rules with Bermuda Telephone Company, the incumbent local exchange carrier in Bermuda; Logic Communications Limited, a competitive carrier authorized to provide international telecommunications services in Bermuda; and Genespidernet Caribbean, Inc., a competitive carrier authorized to provide telecommunications services in Curacao, Netherlands Antilles.

(j) KeyTech certifies that it seeks to provide international telecommunications services to all global points, except those points on the Commission's Exclusion List. This includes Bermuda and Curacao, Netherlands Antilles, where KeyTech has foreign carrier affiliates as indicated in paragraph (i) above.

(k) Curacao, Netherlands Antilles is a WTO Member. Bermuda is regarded by the Commission as a WTO Member Country for Section 214 authority purposes.

(l) KeyTech may resell the international switched services of unaffiliated U.S. carriers for the purpose of providing telecommunications services to Bermuda and to the Netherlands Antilles, where KeyTech is affiliated with foreign carriers as described above. As demonstrated in paragraph (m) below, KeyTech should be treated as non-dominant on the US-Netherlands Antilles route.

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<sup>1</sup> See, e.g., Cable and Wireless USA, Inc., Application for Authority to Operate as a Facilities-based Carrier in Accordance with the Provisions of Section 63.18(e)(4) of the Rules between the United States and Bermuda, File No. ITC-214-19990709-00412, Order, Authorization and Certificate, 15 FCC Rcd 3050 (2000), at para. 7 (deferring to the opinion of the U.S. Department of State in treating Bermuda as a WTO Member for purposes of applying the proper entry standard).

Although KeyTech's affiliate Bermuda Telephone Company is not on the Commission's *List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*, released June 18, 1999, it is the incumbent local exchange carrier in Bermuda. Therefore, KeyTech agrees to file quarterly traffic reports pursuant to Section 43.61(c) of the Commission's Rules with respect to the US-Bermuda route.

(m) KeyTech should be classified as non-dominant on the US-Netherlands Antilles route pursuant to Section 63.10(a)(3) of the Commission's Rules, because KeyTech's affiliate Genespidernet Caribbean, Inc. is a non-dominant carrier in Curacao, the Netherlands Antilles. Genespidernet Caribbean, Inc. does not appear on the Commission's *List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*, released June 18, 1999. In addition, Genespidernet Caribbean, Inc. is a relatively new market entrant offering services in competition with a dominant foreign carrier and others in Curacao, Netherlands Antilles. At this time, Genespidernet Caribbean, Inc. holds significantly less than a 50 percent market share in the international transport and local access markets of the Netherlands Antilles. Moreover, Genespidernet Caribbean, Inc. does not have the ability to discriminate against unaffiliated U.S. carriers through the control of bottleneck services or facilities, or to exercise market power in the Netherlands Antilles. Genespidernet Caribbean, Inc. therefore satisfies the criteria of Section 63.10(a)(3) of the Commission's Rules. Accordingly, KeyTech should also be classified as non-dominant on the US-Netherlands Antilles route.

#### **Question 15**

KeyTech has not previously received authority under Section 214 of the Communications Act. KeyTech's affiliate, Genespidernet Caribbean, Inc., was granted global authority under Section 214 of the Communications Act to provide international facilities-based and resale services on May 18, 2001, pursuant to FCC File Number ITC-214-20010418-00242, Public Notice DA No. 01-1278, released May 25, 2001.